

THE COMMON COUNCIL OF THE CITY OF NEW ALBANY, INDIANA HELD A MEETING IN THE CITY/COUNTY BUILDING ON MONDAY, MARCH 22, 2007.

The meeting of the **New Albany City Council** was called to order by President Larry Kochert at 7:31 p.m. The meeting opened with a prayer from Reverend Ronnie Blevins and the Pledge of Allegiance.

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Schmidt, Mr. Price, Mrs. Crump, Mr. Gahan, Mr. Blevins, Mr. Messer, Mr. Zurschmiede and President Larry Kochert.

OTHERS: Council Attorney Jerry Ulrich and City Clerk Marcey Wisman.

ALSO: John Rosenbarger, Planning and Zoning, Shane Gibson, City Attorney, Anthony B. Toran, Director of City Operations and Mayor James E. Garner, Sr.

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Price moved to approve the March 5th meeting minutes, Mr. Messer second, all voted in favor except Mrs. Crump and Mr. Schmidt who abstained.

Mr. Coffey moved to amend the agenda to present the CF-1 forms first, Mrs. Crump second, all voted in favor

APPROVAL OF CF-1 FORMS:

Jesse Ballew Enterprises, Compliance with Statement
of Benefits, Referencing R-00-30A & R-00-30B

Mr. Messer stated that their attached letter states that this is for a parking lot.

Mr. Ballew stated that the parking lot was enlarged to accomidate the employees of the Department of Family and Children

Mr. Coffey moved to approve, Mr. Blevins second, all voted in favor

S & H Properties, LLC, Compliance with Statement
of Benefits, Referencing R-00-48 & R-99-15

Mrs. Crump moved to approve, Mr. Messer second, all voted in favor

Lukemeier Enterprises, d/b/a Limmco, Inc., Compliance
with Statement of Benefits, Referencing R-99-06

Mrs. Crump moved to approve, Mr. Messer second, all voted in favor.

COMMUNICATIONS – PUBLIC:

Mrs. Yvonne Kersey, stated that she appreciates the council listening to her regarding the sanitation trucks and she presented pictures of trucks. She discussed the issues regarding Eco-Tech and what they are paying the city for rentals and the continued rate of indebtedness for the sanitation department.

David Huckleberry, discussed the resolution to add an additional \$500,000 for paving and how it appears during an election year and he hoped that they wouldn't approve this until they know what streets are going to be paved. He also discussed the resolution to investigate the sanitary department. He addressed his concerns with the ordinance to rescind the current fire hiring ordinance.

COMMUNICATIONS – CITY OFFICIALS:

Bill Schmidt, had questions regarding the sanitation contract and the first four months payments for the trucks.

Mr. Toran stated that it should have been retroactive

Mr. Schmidt said according to the contract they didn't start collecting until May 2006 but the contract was in effect in January 2006.

Mr. Gibson explained that the amount should have been retroactive but somehow the language of the contract didn't address that, but they will have to look at it when sanitation proposals come up.

Mrs. Crump stated that they still owe the City four months.

Mr. Gibson said of some value yes but not the \$12,000 that is there.

Mr. Kochert asked why they wouldn't owe the \$12,000.

Mr. Gibson stated that the agreement that was reached would be that they used the equipment and paid the City \$12,000 but the rental value of that equipment is nowhere near \$12,000.

Mr. Kochert stated that they just purchased a truck for \$98,000 and the company they got the contract with had access to an entire fleet plus the Cities business and that should be worth \$12,000/month.

Mr. Gibson stated that they aren't talking about new trucks here, but old equipment that Mayor Garner negotiated to get this company to use. He stated that the rental value of those trucks will be accessed and he will get the numbers to the council as soon as he has them.

Mr. Schmidt asked what they are getting out of the building down there that they are using.

Mr. Gibson said the value of everything including the trucks and the building is approximately \$150,000.

Mr. Schmidt stated that it went up this past January to over \$13.00

Mr. Gibson said that is price per collection.

Mr. Zurschmiede asked why it went up to the highest CPI instead of going up with SPI.

Mr. Gibson explained that it was raised with a sub-group of the CPI for sewer.

Mr. Price stated that he was in a meeting with the fire union this morning and Tony Wolfe asked if he could be in on the fire hiring ordinance meetings.

Mr. Coffey asked Mr. Chuck Simons to come forward to thank him for the work that he has done on drainage issues.

Mr. Simons expressed that he has a problem in the Street Department with the lack of staffing and gave the council an over-view of how he has to break up his staff to complete the jobs that they have to do everyday. He asked the council for money to purchase a new gavel truck because they run so far behind anytime one of the trucks breaks down or needs any type of maintenance. He explained that the gavel truck can pick up in one day the same amount that three crews can.

Mrs. Crump asked how much a gavel truck would cost.

Mr. Simons stated that a used truck will cost \$85,000 and a new one will cost \$120,000. He stated that this would also help them to take care of the trash left by renters. He explained that they also need a new street sweeper because they have two now but last year on average they had at least one down two days out of every week.

Mrs. Crump asked what the cost was for street sweepers.

Mr. Simons said that new one is \$185,000 a used one is \$175,000.

Mr. Zurschmiede asked what the life expectancy of the trucks were.

Mr. Simmons stated if they are maintained properly approximately ten years.

Mrs. Crump stated that the City's are 5 & 7 years old but they are already falling apart.

Mr. Blevins stated that we purchased those trucks used so it wasn't like we bought new equipment and then maintained it.

Mr. Zurschmiede asked if maintenance was done in house

Mr. Simmons said it was and the street sweepers take up most of the time in the bays because they are the most used vehicles.

Mr. Zurschmiede asked if he wanted a third sweeper as a back-up.

Mr. Simons explained that if he had these two pieces of equipment and three new employees that he could have an efficient department. He explained that the street sweepers would be able to get to the subdivisions that they are unable to get to now if they had a third truck.

Mr. Zurschmiede asked if his department is also responsible for the removal of weeds, trimmings and trees.

Mr. Simmons said yes and they also take care of potholes, which they do not have the manpower for now and they also take care of signs that are torn down or missing.

Mr. Price stated that if they get the new gavel truck that will do the work of three crews so they are eliminating the need for that extra manpower.

Mr. Simmons stated that this is correct that is why he stated that they would only need three new employees.

Mr. Messer asked if they has a schedule of when they do pick ups.

Mr. Simmons stated that he broke the City down into four zones plus the inner-city area. Area one is State Street- Budd Road, area two is State Street- Grantline Road, area three is Grantline Road- Charlestown Road, and area four is Charlestown Road- DePauw.

Mrs. Garry explained that anything over \$75,000 had to go out for bids and she told the council that they have a tabled ordinance that would have allocated money to the street department to bring them out of the red, because they have been operating in the red since 2002.

Mr. Steve LaDuke, Building Commission President, presented a list of 5 houses that have had the legal proceedings started for demolition. He stated that there will be a building commission meeting on April 19, 2007 for the property owners to appeal their demolition.

Mr. Zurschmiede asked what the process was for getting these houses demolished.

Mr. Gibson explained that they will send out a certified letter, have it published in the paper and have a letter hand delivered. He said they don't normally have to do all of this but that they are doing it to be on the safe side. He said once the recipient receives the letter they have 15 days to do the work themselves or they have to contact the building commissioners' office. Fines will be issued for those that fail to comply and then they will get demolition permits as early as the day after the building commissioners meeting.

Mr. Messer asked if there was any record of these being dealt with before.

Mr. Gibson said that there was record from 2002-2003 but state statute says if they aren't acted upon within two years it is null and void.

Mr. Messer asked if the property taxes on all of these have been paid.

Mr. Gibson stated as far as he can tell they are all up-to-date.

Mr. Messer asked if these houses are tore down will liens be placed on the property.

Mr. Gibson said liens will be placed on the properties to secure their interest in two ways. One through the tax sales and second foreclosing on the lien itself.

Mr. LaDuke stated that they are in the process of bidding for the demolition of these houses.

Mrs. Garry stated that she has never seen a notice for a demolition over \$75,000 and all he needs to get is quotes.

Mr. Messer asked if they were advertising that the City was taking bids for these demolitions.

Mrs. Garry stated that they can do that but it is not necessary.

Mr. Gibson stated that in the past it was just done with multiple quotes from all the demolitions companies in the area.

Chief Toran addressed the council regarding the fact sheet that was read at the last council meeting from the Committee on City Ambulances and asked the City Clerk to read a memo into the record. Said memo is on file with the City Clerk's office. The chief explained that that our ambulance service is not meant to be a money making service.

Deputy Chief Mason asked Ms. Wisman to read a letter from Mr. Richard Duggins, President New Albany Professional Firefighter's, Local 410, said letter is on file with the city clerk's office. He also presented to the council information regarding the piece of equipment that the council accused them of wasting and the issues with said equipment.

Mr. Coffey said he would like to know how much time the council has wasted in these committees and apologized to Chief Toran.

Chief Toran stated that he does appreciate certain council members that he knows is trying to do a good job, but that the others are just politically motivated and his office will always bring the facts when asked.

COMMUNICATIONS – MAYOR:

Mayor Garner discussed the \$500,000 for the paving he emphasized that the streets need to be paved. He stated that he didn't receive anything from any council members about which streets that they believed needed the most work.

Mr. Zurschmiede stated that he doesn't believe that they are qualified to make that decision.

Mayor Garner said they drive the streets everyday and know which streets are in bad shape.

Mr. Zurschmiede said that he thought there used to be a list of streets that needed work

Mayor Garner said there was and that a lot of those streets came from council members before Mr. Zurschmiede took his position on the council. He explained that there is an ongoing list but the council members have been asked for their input since 2000.

Mr. Messer asked why this hasn't already been started and stated that he thought we had over \$400,000 in the funds for this already.

Mayor Garner stated that we have \$300,000 and it was not left over from last year but it was from this year alone. He stated that they streets need milling before they are paved and the Board of Works has already awarded those bids to Gohmann and Mac.

Mrs. Crump asked if we could sell the milling equipment that the city owns and use that money for the streets.

Mr. Price stated that he will give no argument that we need to do paving, but he feels that we need to spread these items out over the year.

Mayor Garner stated that on the issue of the resolution for the sanitation investigation, no one has gone to Kay and asked about the funds, no one has gone to the Board of Works to inquire about the space, no one has asked about the city facilities or equipment.

Mr. Blevins stated that he has tried to contact the Mayor on several occasions and has never gotten a response.

Mayor Garner asked Mr. Blevins if he has been to the Board of Works to inquire about any of this.

Mr. Blevins said no because he was told not to take care of council business on City time.

Mayor Garner said then he would suggest doing it on his day off, and asked if he went to the New Albany Housing authority on city time.

Mr. Blevins said he did go to that meeting but made up the time.

Mr. Kochert asked Mayor Garner about a quote in the paper that Southern Indiana is picking up their recycling for free because they are just in that area. He argued that he is a tax payer for the city and if they are “in the area” he should just get his picked up for free.

Mayor Garner stated that they aren't using tax dollars; it is Southern Indiana Waste dollars. They are paying to use the truck and the county doesn't recycle so the recycling that they do benefits the city.

INTRODUCTION OF ORDINANCES AND RESOLUTIONS: READING

R-07-11	Resolution to Use \$500,000 from the EDIT Fund for The Repair, Paving, Milling and Striping of Streets in New Albany	Gahan
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Mr. Coffey stated that he spoke to a woman the other day that just got out of the hospital and the major pain that she had from the roads on the way home.

Mr. Price stated that he thinks this should be tabled until the budget issues are resolved and he asked why can't we use what is currently in the fund and then come back later and ask for more money.

Mrs. Crump stated that Mrs. Garry said that there was \$300,000 available for paving and that the council could appropriate \$150,000 more and she wanted to know if this could get us started and then they could come back and ask for more.

Mrs. Garry stated that this is just a resolution for the money and it would still have to be appropriated and by the time that went through three readings it would be another 60 days before anything was done.

Mr. Zurschmiede stated that the city hasn't done anything for three years so he doesn't understand why it is so important to jump full force into it now and demand the other money over the \$450,000.

Mrs. Garry explained to Mr. Zurschmiede that they spent the last three years getting that fund out of the hole that they were left from the previous administration.

Mr. Coffey withdrew his second,

R-07-12	Resolution to call for an Investigation Regarding Use of City Funds, City Facilities and Equipment Of the Sanitation Department.	Blevins
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Mr. Blevins moved for the reading of R-07-12, Mr. Schmidt second,

Mrs. Crump asked who would do the investigation.

Mr. Blevins stated that it would go to the Prosecuting attorney.

Mr. Gibson asked if Mr. Blevins was alleging criminal activity.

Mr. Blevins stated that he isn't accusing anyone of anything but it seems to him when information is asked for or when he tries to make contact with the proper parties he can no get any response.

Mr. Gibson asked Mr. Blevins if he requested any of the pertinent information from the city controller that he was able to supply to the council before the meeting.

Mr. Blevins repeatedly told Mr. Gibson that he tried to get the information from the Mayor and that this was an issue about misappropriations of city funds and misuse of city equipment, and not about him. He stated that the equipment is being used in another state and he was told it was because maintenance is done on them in KY, but he has questions as to why the New Albany emblem came off the trucks when they were in KY.

Mr. Gibson stated that this is equipment that is being leased by a private company and there is nothing that requires them to stay in the city, and there is nothing in the requirements that states that they have to keep the emblems on the trucks, but Mr. Lee will attest that the trucks are not used anywhere outside the city other than to take them for maintenance in KY and for recycling on Dixie Highway. He stated that Mr. Blevins is arguing that this is not about him, but that he is the same person that owns a corporation that collects sanitation.

Mr. Blevins said that is correct,

Mr. Gibson stated that he openly bided against Indiana Southern Waste for the Housing Authority job and did not receive that job.

Mr. Blevins said that is correct.

Mr. Gibson said and now he is in front of this body asking them to give him credence by asking for an investigation into the company that he lost a bid to.

Mr. Blevins said this is not about him but about the misuse of city equipment and misuse of tax payers' money.

Mr. Gibson said the proper time for these questions from Mr. Blevins would have been back in august when they council passes a resolution to fund money for Indiana Southern Waste not five weeks from the election.

Mr. Blevins said he got the run around looking for the copy of the lease agreement from Shane, the Mayor, and the clerk's office. He stated that he got the contract from Ms. Wisman's office and he went to the Mayors office to ask why this wasn't on file at the clerk's office. He said he is not claiming that there is any criminal activity but he was unable to get any information from the correct parties.

Mr. Gibson stated to the council that they have every document in front of them regarding this issue and he, along with Mr. Lee, the Mayor and the President of the Board of Works are there tonight to answer any questions and put to rest any concerns that they may have.

Mr. Messer stated that they gave Ms. Wiseman a contract but there was a lease agreement that should have been with it.

Mr. Gibson stated that the lease agreement was interred into after the contract was signed and he was unable to locate it when Mr. Blevins asked for it.

Mr. Messer asked how long it was after that did Ms. Wisman receive a copy.

Ms. Wisman stated she got a copy of the lease agreement this week.

Mr. Messer stated that Ms. Wisman is the clerk for the council and she should have all copies of legal documents

Mr. Gibson said that he admits fault in this situation and agrees that Ms. Wisman should have had a copy.

Mr. Price asked Mr. Gibson about a state statute that said no city equipment shall be leased out.

Mr. Gibson explained that he was told by the State Board of Accounts that it would be considered excess property that can be leased or sold, but those items have to go through some sort of appraisal process.

Mr. Coffey stated that he has went to look for documents and couldn't find them but they have to realize things get lost and we have a antiquated system and things are piled in boxes.

Ms. Wisman stated that her office is in the process of cleaning all of that up and that they have bought several new filing cabinets and have gone through the majority of those boxes to restore some order to the system that was left from the previous clerk.

Mr. Coffey stated that he understands Mr. Blevins frustration but doesn't think there was anything criminal going on, it was just mistakes that were made.

Mr. Blevins stated that he never said there was anything criminal but that it was difficult to get information and who better to deal with that issue than another lawyer.

Mr. Gibson asked Mr. Blevins what his questions were.

Mr. Blevins said the questions would come from the prosecutor.

Mr. Gibson explained that this is a resolution sponsored by Mr. Blevins that states there are questions regarding the contract/lease agreement and he wants to address those questions.

Mr. Kochert asked Mr. Lee why he picked up recycling at the Montessori School.

Mr. Gibson stated that this is equipment that they are leasing and can use any way they chose.

Mr. Lee explained that the children at the school wanted to develop a recycling program and he worked with them to implement a program and the money from the recycling goes to New Albany just like any other recycling.

Mr. Messer asked about the money that should be paid retroactively.

Mr. Lee said as the contract holder he would adhere strictly to what the contract called for.

Mr. Blevins asked if it was illegal to assume a municipality lease by a private company when that lease has been given to the city as tax exempt and low interest rate.

Mr. Ulrich stated that with what knowledge he has if would assume if it was legal for the City to inter into a lease it would be legal for them to assign that lease.

Mr. Blevins asked Mr. Lee if Mayor Garner was part owner of the company.

Mr. Lee stated that he is not a partner or owner in any shape or form

Mr. Gibson stated that if the Mayor or any other official was a part of this then they would have to file a conflict of interest disclosure.

Mr. Lee said he is always available for any questions or comments that the public or the council may have, he stated that he has never been asked anything before but he is more than willing to address any concerns that anyone may have about them or their performance.

Mr. Zurschmiede asked if Mr. Lee would be willing to disclose who else has ownership in his company.

Mr. Lee said it is three entities and two individuals.

Mayor Garner asked why they have never asked any other corporation who the city has awarded a contract too who their owners are.

Mr. Lee stated that the only thing he would disclose is that there are three other businesses that he owns that are involved and one other individual.

Mr. Gibson stated that he hopes in the future they will not have any issues getting documentation that they need but if they feel there is a problem they can file issue with the Indiana Public Access Counselor.

Mr. Kochert called a 5 minute recess at 9:35 p.m.

Mr. Kochert called the meeting back to order 9:42 p.m.

Mr. Blevins withdrew his motion

Mr. Schmidt withdrew his second.

Mr. Blevins tabled this to give the council time to read through everything that they were given by Mr. Gibson.

Mr. Blevins wanted it known for the record that he has no disciplinary action in his personnel record and he isn't saying something may happen but it has been done in the past when you anger an administration.

R-07-13	Resolution To Fund the Up-dating of the Former Communications Room in the New Albany Police Department by the New Albany-Floyd County Building Authority	Price
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Mr. Price moved for the reading of R-07-13, Mr. Coffey second,

Mr. Price discussed a memo presented by Ms. Garry and expressed his opinion that he thought this should be the responsibility of the Building Authority.

Mr. Coffey withdrew his second.

Mr. Price withdrew his motion.

Mr. Price tabled this resolution.

Mr. Brandt explained that the building authority bases there budget on their past years experience and do not squirrel away money for unknown expenditures. He stated that their rent works out to .80 per square foot and he doesn't believe they could find rental space for less than that.

Mrs. Crump asked what this room is going to be used for.

Chief Harl explained that they will be installing computers in this room for the officers to prepare reports and they will also use that room for press releases.

R-07-14	Resolution to Use \$15,000 From the Riverboat Fund For the Purchase of a Truck for the Code Enforcement Officer of the City of New Albany	Messer
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Mr. Messer moved for the reading of R-07-14, Mr. crump second,

Mr. Gibson explained that Ms. Badger has been using a police vehicle and the chief has had to take that car back for his fleet and she needs a car. He explained that they would like a truck so that she may be able to pick up trash and things on the site.

Mr. Coffey stated that he has issue with this being a take home vehicle.

Mr. Gibson says he has no problem with it not being a take home vehicle.

All voted in favor with the exception of Mr. Kochert and Mr. Price, who voted nay.

A-07-08	An Ordinance Amending Ordinance A-06-38 Setting The Salaries for the Year 2007 for Non-Bargaining Unit Employees	Zurschmiede 1
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Mr. Zurschmiede moved for the first reading of A-07-08, Mr. Messer second,

Mr. Price stated that he has a problem with them adding layers of government.

Mr. Gahan stated that it seems to him that this person should have been hired prior to the \$40,000,000 project and he stated that the sewer board doesn't have as much responsibility as they once has since they aren't dealing with drainage any longer.

Mr. Messer felt that if we are going to pay a qualified engineer that they should also oversee stormwater.

Mr. Kochert said that was incorrect, that the individual that took this position would have a full plate with sewers alone.

Mrs. Crump asked who was doing it now

Mr. Zurschmiede said that no one is doing it now and that is the problem because there is no one representing the City or to oversee the spending on behalf of the City.

Mr. Coffey said he was told that is what they contracted Sam for.

Mr. Kochert stated that the individual hired would replace Sam.

Mr. Price stated that every time there is a rate increase new people are hired.

Mrs. Crump asked Mr. Price what he would suggest is the solution.

Mr. Price said it is something that needs to be looked at but don't add layers of government.

Mr. Zurschmiede stated that he wasn't there when Sam was hired so he isn't sure what capacity he was hired in but that he still isn't an employee of the city and that is what they need, someone who is looking out for the cities interest.

Mr. Price said that it looks like mismanagement of the sewer utilities.

Mr. Kochert said they are still going to need this person to run an efficient sewer system.

Mr. Messer stated that has been a problem of the City of New Albany, they don't tend to hire the individuals that are qualified but their buddies who are doing the best job they can but aren't qualified to do the jobs and that they are going to have to wake up and start spending money on qualified individuals.

Mr. Zurschmiede stated that he appreciates the fact that they don't need both of these individuals, but that the sewer utility in the city is bigger than the rest of the general fund put together and the only ones looking after that is a part time sewer board.

Mr. Coffey stated that he had issue with the city hiring Mr. Lahanis to evaluate the company he previously worked for.

Mr. Kochert said they are close to renegotiating that contract.

Mr. Price asked if they knew how it made him feel as a tax paying citizen to hear that EMC is only looking out for EMC.

Mr. Zurschmiede stated that of course they are looking out for themselves. They are a private company that is there to make money and if they weren't then why would they be there.

Mr. Price said a lot of this came about when there was alleged abuse of money with the sewers.

Mr. Kochert stated that this was not true. He said every since he, Mr. Seabrook and now Mr. Zurschmiede have been on the sewer board it has been their charge to make the sewers efficient and they have started to do that.

Mr. Coffey stated that he would be more comfortable if they brought the sewers back in house.

Mr. Zurschmiede stated that would be the worse thing that could happen to this city and that is why the sewers got the way they were. He doesn't think there is very many people in the City of New Albany that are qualified to take on managing the plant.

Mr. Gahan asked what EMC thought about this idea.

Mr. Kochert said he didn't believe EMC liked this idea because he was sure they wanted to provide this service.

Mr. Zurschmiede stated that he believes that EMC is going above and beyond the call of duty to make sure these engineers are going out to get the jobs done, but there is no one representing the City's interest.

Mr. Blevins asked who hires contractors that come in.

Mr. Kochert said that it was EMC

Mr. Blevins said what is to keep them from running the bill up by contracting out to their friends.

Mr. Kochert stated that they have to bid the jobs out.

Mr. Zurschmiede said just another example of the need for a city engineer is the work that is being done on Elm Street. He stated that he drives by there and sees the workers from MAC Construction working on the street and he wondered whose job it was to inspect the work that was being done. He explained that he called John Rosenbarger and asked him and Mr. Rosenbarger stated that it was his job because they do not have a city engineer that would typically handle this type of work. He said that the city is making all of these improvements but they don't have anyone that will go out and inspect the work that is being done.

Mr. Gahan said that obviously by this conversation EMC is not doing part of their job and he wanted to know exactly what wasn't getting done.

Mr. Kochert said that was not true

Mr. Gahan asked if they were doing their job

Mr. Zurschmiede stated that they are doing more than their fair share in his opinion.

Mr. Gahan asked if they need someone to do work beyond what they are doing.

Mr. Zurschmiede stated that they needed someone to work on the cities behalf.

Mr. Zurschmiede withdrew his motion

Mr. Messer withdrew his second

Mr. Zurschmiede tabled the ordinance to give the council time to think about this and for him to do some more research.

A-07-09	An Ordinance to Approve the 2007 Rates for the Communications (CWA) Employees	Crump 1
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Mrs. Crump moved for the first reading of A-07-09, Mr. Coffey second, all voted in favor.

A-07-07	Additional Appropriation	Crump 2&3
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Mrs. Crump moved for the second and third reading of A-07-07, Mr. Coffey second, all voted in favor. Bill A-07-07 became Ordinance A-07-09.

G-07-03	Ordinance to Amend the Construction Runoff Quality Management Ordinance (G-06-03) to Provide for the Collection of Plan Review and Permit Fees	Coffey 2&3
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Mr. Coffey moved for the second and third reading of G-07-03, Mr. Price second, all voted in favor. Bill G-07-03 became Ordinance G-07-10.

G-07-04	An Ordinance to Establish a Fund For the Deposit Of Fees Paid To the City of New Albany, Indiana For Construction Site Plan Review and Inspection	Coffey 2&3
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Mr. Coffey moved for the second and third reading of G-07-04, Mr. Schmidt second, all voted in favor. Bill G-07-04 became Ordinance G-07-11.

G-07-05	An Ordinance to Repeal Chapter 32, Section 32.80 Through Section 32.88, New Albany Fire Department Candidate Selection Process Act	Coffey 2&3
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Mr. Coffey moved for the second reading of G-07-05, Mr. Gahan second,

Mrs. Crump asked for clarification she asked if this ordinance is the one that is on the books now.

Mr. Gahan said that it doesn't do what it is supposed to do and for that reason there is no use in hanging on to it.

Mr. Zurschmiede stated so that they are hanging onto it for the lack of any at all and if we repeal this there will be nothing.

Mrs. Crump asked if they are trying to do away with the ordinance that is on the book now and go back to the way it was prior too this ordinance.

Mr. Zurschmiede said that there was no ordinance prior to this.

Mr. Messer stated that is was a draw; they put names in a hat.

Mr. Coffey stated that was incorrect and that Steve Byrd gave them a presentation that showed that they took the top agility scores and you had to then take the testing for paramedics, and he explained that if you failed any part of the agility test you didn't get to come back.

Mr. Gahan stated that they don't have hiring ordinances for anyone on the third floor or sanitation workers, yet they are able to fill those positions.

Mr. Kochert stated that under the previous administration back in 1990 it was purely the Mayors pick.

Mr. Gahan said that he doesn't know about that but he does know that the current ordinance isn't working, and that it doesn't meet the needs of the department.

Mr. Price stated that he is looking forward to working on this with all parties involved including the Mayor and Chief Toran and he really feels like they can reach a compromise.

Mr. Messer asked council if they repeal the current ordinance without one to take its place do they open themselves up for a lawsuit.

Mr. Ulrich stated that it is possible.

Mrs. Crump asked Chief Toran to address that question

Mr. Messer asked Chief Toran how many firefighters that currently had

Chief Toran said 75

Mr. Messer asked what they were budgeted for

Chief Toran said he put in for 82

Mr. Messer asked when would be the next time that they test.

Chief Toran said not until September.

Mr. Messer stated that until September since they have already hired off the current list then they shouldn't change the practice.

Chief Toran stated that they haven't hired anyone off that list. The six people were hired off last year's list.

Mr. Messer stated that his is working off of some list that went through testing under the current ordinance.

Mrs. Crump asked how long they stay on the list and are eligible to test.

Chief Toran said prior to the ordinance it was one year but once the ordinance was passed it changed to two and then whenever they felt like testing. He said the ordinance is very vague and that is one of the issues. He stated that he is tired of fighting over this and he wants the council to make a decision so they can all move from there.

Mrs. Crump asked what happened to the candidates that are on the list to be hired if they repeal this ordinance.

Chief Toran stated that they are still on the list. All they have gone through is the agility test and everyone has to do that.

The second reading of G-07-05 fails with a vote of four ayes from Mr. Coffey, Mrs. Crump, Mr. Schmidt and Mr. Gahan, and five nays from Mr. Price, Mr. Blevins, Mr. Messer, Mr. Zurschmiede and Mr. Kochert.

Z-07-05	An Ordinance for the Vacation of a Public Way Pursuant to a Petition Filed by Marlin Andres	Blevins 2&3
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Mr. Blevins moved for the second and third reading of Z-07-05, Mr. Coffey second, all voted in favor. Bill Z-07-05 became Ordinance Z-07-12.

Z-07-06	Ordinance Amending the Code of Ordinances of New Albany, Indiana, Title XV, Chapter 156, (Docket P-01-07: Charlestown Crossing I, LLC by Gary McCartin)	Zurschmiede2&3
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Mr. Zurschmiede moved for the second and third reading of Z-07-06, Mr. Crump second, all voted in favor. Bill Z-07-06 became Ordinance Z-07-13.

Z-07-07	Ordinance Amending the Code of Ordinances of New Albany, Indiana, Title XV, Chapter 156, (Docket P-03-07: Sprigler Development Co., Inc.)	Zurschmiede2&3
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Mr. Zurschmiede moved for the second and third reading of Z-07-07, Mr. Messer second, all voted in favor with the exception of Mr. Schmidt who voted no. Bill Z-07-07 became Ordinance Z-07-14.

MISCELLANEOUS COMMUNICATIONS: (public comments on non-agenda items)

Dick Stewart addressed the board regarding his concerns with lowering the standards of the fire hiring ordinance. He felt that the fire fighters should have to be tested each year for agility. He felt that the administration has retaliated against him politically by picking up his signs and leaving others behind. He showed pictures to the council of the locations where his signs were picked up and other were left. He stated that this is all retaliation because he does not agree with them on the fire hiring ordinance. He said that Mr. Coffey's proposal is even worse than the one that is tabled. He stated that he thinks it is the best interest of New Albany to keep the current program in place and wait until after the election when no politics is in play.

Mr. Coffey stated that it was politics that issued the ordinance that is in place now. He explained that Mr. Stewart claimed that there was no previous testing but the truth was there was an agility test and if you didn't pass it you were out and if you did then you had to go pass the test to be a paramedic. He explained that the Fire Department was the one administering this test and that is the way it should be and this practice worked for the city for over 30 years. He stated that they are the ones trying to take the politics out of the hiring process.

Mr. Stewart stated that it came to his attention that a candidate for city council was threatened by another council member that they were going to have their signs taken down if put in particular locations.

Mrs. Crump stated that the council meetings have gotten totally out of hand and all they do now is argue and she believes that it is sad that they were elected to do a job and they can't get anything done because of all of the in-house fighting. She explained that this was the reason that she isn't running for city council again because she is tired of fighting this battle.

Mr. Messer stated that he would just like it on the record that the previous ordinance on the books passed 9-0.

Mr. Gahan stated that doesn't mean that it works.

Mrs. Kersey stated that the city council is the last recourse for issues like this. She said that there are legality issues having a city employee who is also a party representative instructing city employee to use city time looking for signs and this becomes the taxpayer's issue when there is misuse of City funds and City time. She stated those signs are worth a lot of money to each candidate and respect needs to be shown on both sides of the issue.

Mr. Toran addressed the misinformation that had been given to Mrs. Kersey and Mr. Stewart he asked if anyone knew who owned the public right-of-way

Mr. Messer said the City of New Albany owns them

Mr. Kochert asked why the other signs were left there.

Mr. Toran asked again who owns the city right-of-way, and then explained that the Board of Public Works and Safety owns them. He said you can not commit a theft if something is on your property and he doesn't appreciate that it was said that he caused a city employee to commit a theft. He stated that no one called him nor did they come to the Board of Public Works and Safety to see why he made the decision that he made. He explained that he had complaints about the signs being in drains and islands and those were the signs that were removed, he stated that Mr. Stewart complains about things not going through the chain of command but he seems to have issue with the fact that he is the command and the reason why Mr. Simmons wasn't notified was because he was off last Friday. He explained that if anyone has any issues about signage then they need to come to the Board of Works and deal with it there.

Mr. Kochert said that Mr. Toran still didn't address the question.

Mr. Toran said once again that the signs in the island and the drains were taken as far as he knows.

Mr. Kochert said that he needed to look at the pictures because there was no drain and only two signs were taken.

Mr. Toran asked how he knew they were taken from this location

Mr. Kochert said that he is looking at the pictures.

Mr. Toran said but the pictures show them not being there so how would he know they were even there.

Mr. Kochert said that he does know that they were there because he helped put them up.

Mr. Toran stated then Mr. Kochert helped violate the law and that is the kind of leadership that they have.

ADJOURN:

There being no further business before the council, the meeting adjourned at 10:58 p.m.

Larry Kochert, President
Common Council, City of New Albany

ATTEST: _____
Marcey Wisman, City Clerk